

STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
Land Division
Honolulu, Hawaii 96813

October 10, 2008

Board of Land and Natural Resources
State of Hawaii
Honolulu, Hawaii

PSF No.: 08HD-112
& 08HD-113

HAWAII

Withdrawal from Governor's Executive Order No. 2554; Set Aside to the Department of Water Supply, County of Hawaii, for Well and Reservoir Site at Ahualoa, Hamakua, Hawaii; Tax Map Key 3rd/ 4-6-11: 42 por.

APPLICANT:

Department of Water Supply, County of Hawaii ("Applicant"), whose business and mailing address is 345 Kekuanaoa Street, Suite 20, Hilo, HI 96720.

LEGAL REFERENCE:

Sections 171-11, Hawaii Revised Statutes, as amended.

LOCATION:

Portion of Government lands situated at Ahualoa, Hamakua, Hawaii, identified by Tax Map Key: 3rd/ 4-6-11: 42, as shown on the attached map labeled Exhibit A.

AREA:

6.518 acres, more or less

ZONING:

State Land Use District: Agriculture
County of Hawaii CZO: Ag-40a

TRUST LAND STATUS:

Section 5(b) lands of the Hawaii Admission Act

DHHL 30% entitlement lands pursuant to the Hawaii State Constitution: NO

CURRENT USE STATUS:

The subject land was set aside to the County of Hawaii under Executive Order No. 2554 for quarry purposes.

PURPOSE OF SET ASIDE:

For a well and reservoir site for Applicant's water distribution system.

CHAPTER 343 - ENVIRONMENTAL ASSESSMENT:

Applicant conducted an environmental assessment of the proposed use of the subject area as a well and reservoir site. A Draft Environmental Assessment was prepared in December 2005. A Final Environmental Assessment was prepared in February 2006. Applicant, as the approving agency, issued a Finding of No Significant Impact for the project that was published in The Environmental Notice on February 23, 2006.

APPLICANT REQUIREMENTS:

Applicant shall be required at its own cost to:

1. Provide survey maps and descriptions according to the State DAGS standards.
2. Apply for and obtain subdivision approval for the well and reservoir site from the County of Hawaii Planning Department.

REMARKS:

By Governor's Executive Order No. 2554 dated January 16, 1971, Tax Map Key: 3rd/ 4-6-11: 42, comprising of 18.044 acres, was set aside for a quarry site to be under the control and management of the County of Hawaii.

Over the years, the quarry site was abandoned and the land became overgrown. The site is fenced off from adjacent pasture land (except on the side facing the road) to prevent cattle from entering the site. The site is currently used by the County for disposal of small amounts of green waste.

Applicant retained Planning Solutions, Inc. to prepare the environmental assessment for the project. The Draft Environmental Assessment was prepared in December 2005 and circulated for comments. The comments and responses thereto were included in the Final Environmental Assessment prepared in February 2006. Applicant issued a Finding of No Significant Impact based on the Final Environmental Assessment.

By letter dated May 3, 2006, Mr. Milton D. Pavao, Manager of DWS, requested a right-of entry from the Board for conducting the exploratory Phase 1 of the well project. The

right-of-entry was granted by the Board at its meeting of June 9, 2006, Item D-2, and the right-of-entry was issued on June 14, 2006 for a period of one year beginning August 1, 2006. Applicant sought one extension to the right-of-entry to allow its contractor to finish the Phase 1 of the project.

By letter dated November 26, 2007, Mr. Pavao advised Land Division staff that Applicant was prepared to proceed with Phase 2 of the project including outfitting of a completed 20" well, construction of a 1.0 MG reservoir, and approximately 1,100 lineal feet of 12" water line and access road. Mr. Pavao provided a copy of the proposed subdivision of the 6.518-acre well and reservoir site. See Exhibit B attached.

By letters dated March 7, 2008 and September 12, 2008, the County of Hawaii, Department of Public Works ("DPW"), advised Applicant that DPW had no objection to the use of the subject area as a well and reservoir site, or to the withdrawal of the proposed well and reservoir site from Executive Order 2554 and the set-aside of that site to Applicant.

By letter dated June 26, 2008, Mr. Pavao advised that well tests performed during Phase I showed that the well can produce a substantial yield with satisfactory water quality. Mr. Pavao requested that the subject area be withdrawn from Executive Order No. 2554 and set aside to Applicant for the well and reservoir site. Mr. Pavao additionally requested that Applicant be granted authority to submit a subdivision application for the site.

A request for comments was sent to OHA on August 8, 2008. To date, no response has been received.

By memorandum dated August 26, 2008, the Department of the Attorney General approved the continued processing of the subject disposition of ceded lands to the County of Hawaii for the proposed well and reservoir site.

RECOMMENDATION:

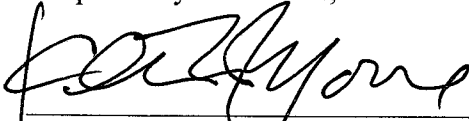
That the Board, subject to the Applicant fulfilling the Applicant Requirements above,

1. Approve and recommend to the Governor of Hawaii, the issuance of an executive order withdrawing the subject area of 6.518 acres identified on Exhibit B, being a portion of Tax Map Key 3rd/ 4-6-11: 42, which is presently under the control and management of the County of Hawaii as a quarry site;
 - A. The standard terms and conditions of the most current executive order form, as may be amended from time to time;
 - B. Disapproval by the Legislature by two-thirds vote of either the House of Representatives or the Senate or by a majority vote by both in any regular or special session next following the date of the setting aside;

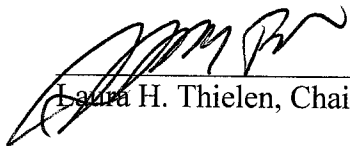

- C. Review and approval by the Department of the Attorney General; and
 - D. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.
2. Approve and recommend to the Governor of Hawaii, the issuance of an executive order setting aside the subject area of 6.518 acres identified on Exhibit B, being a portion of Tax Map Key 3rd/ 4-6-11: 42, to be under the control and management of the Department of Water Supply, County of Hawaii, for a well and reservoir site as part of the Applicant's water distribution system under the terms and conditions cited above, which are by this reference incorporated herein, and subject further to the following:
- A. The standard terms and conditions of the most current executive order form, as may be amended from time to time;
 - B. Disapproval by the Legislature by two-thirds vote of either the House of Representatives or the Senate or by a majority vote by both in any regular or special session next following the date of the setting aside;
 - C. That the area of the set aside may be subject to additional encumbrances, easement and/or rights-of-ways, known and/or unknown, recorded and/or unrecorded;
 - D. Review and approval by the Department of the Attorney General; and
 - E. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.
3. Grant an Immediate Construction and Management Right-of-Entry to the County of Hawaii, Water Board, its consultants, contractors and/or persons acting for or on its behalf, under the terms and conditions cited above, which are by this reference incorporated herein and subject further to the following:
- A. The standard terms and conditions of the most current right-of-entry form as may be amended from time to time;
 - B. This construction and management right-of-entry is effective upon Land Board approval and shall continue until the executive order document is issued;
 - C. The Department of Land and Natural Resources reserves the right to impose additional terms and conditions at any time if it deems necessary while this right-of-entry is in force.

4. That the Chairperson be authorized to consent to the filing of an application with the Planning Department of the County of Hawaii for the subdivision of the 6.518-acre well and reservoir site from Tax Map Key 3rd/ 4-6-11: 42.

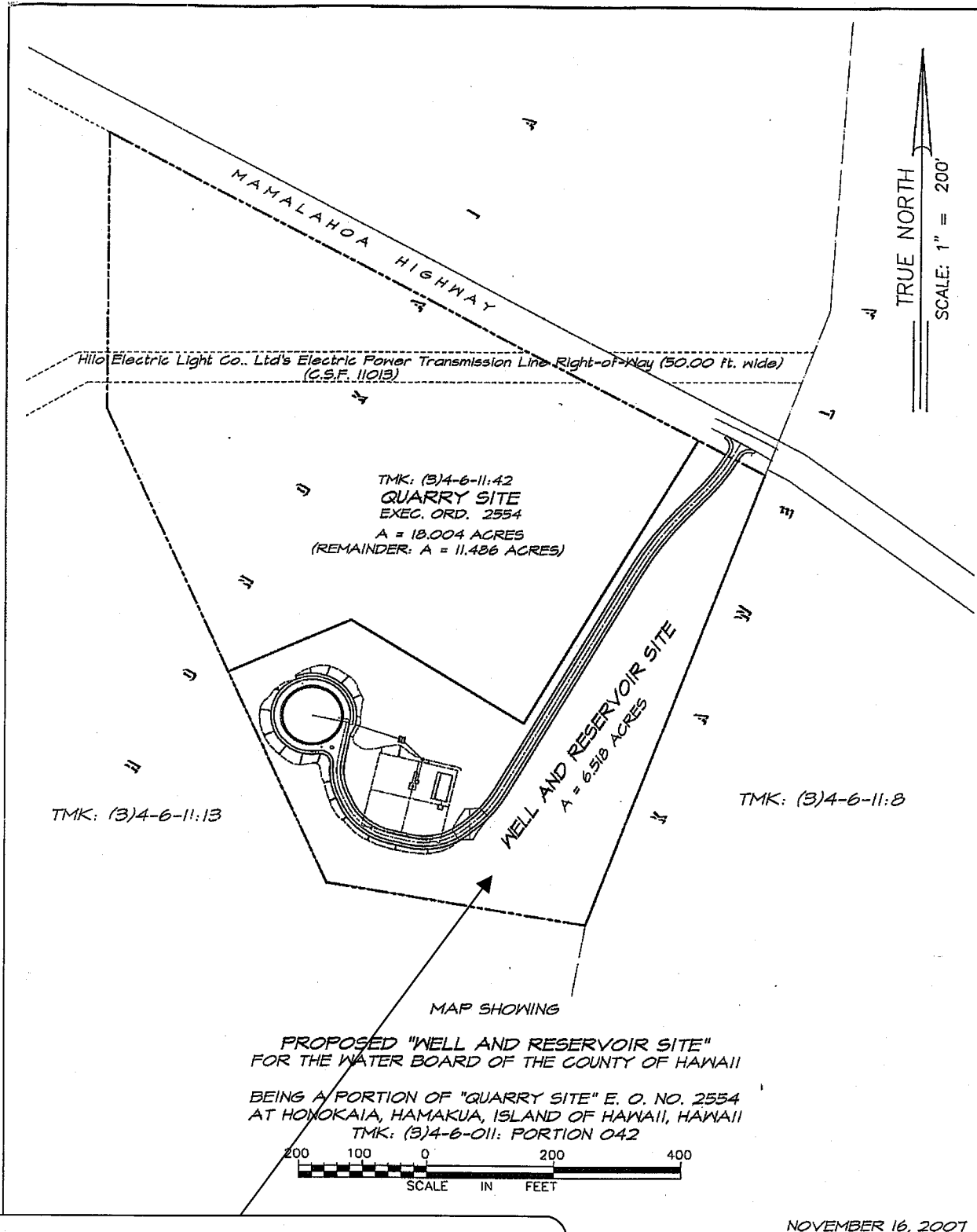
Respectfully Submitted,


for Wesley T. Matsunaga
Land Agent

APPROVED FOR SUBMITTAL:


Laura H. Thielen, Chairperson 





Subject area of partial
withdrawal and re-set aside

EXHIBIT B